

REMARKS

Upon entry of the present paper, Applicants will have elected with traverse the invention defined by claims 1-12. In the Official Action, the Examiner required an election among subcombination (I) claims 1-12, subcombination (II) claims 13-20 and 25-34, and subcombination (III) claims 21-24.

Applicants respectfully traverse the outstanding restriction requirement and submit that it is inappropriate. The three subcombinations identified by the Examiner are structurally and functionally so closely related as to make a restriction requirement inappropriate. For this reason, it is submitted that the restriction requirement is inappropriate and that all the claims in the present application should be examined together.

Applicants further note that although the various claims recite different components, this alone is an inadequate basis to render the embodiments defined by the claims appropriate for restriction. Additionally, the mere fact that the different components require a search in separate subclasses is believed to be inadequate and thus an inappropriate basis for requiring restriction.

Moreover, the restriction requirement set forth by the Examiner omits one of the two criteria for a proper restriction requirement now established by the U.S. Patent and Trademark Office. As set forth in M.P.E.P. § 803, “an appropriate explanation” must be set forth by the Examiner as to the existence of a “serious burden” if the restriction requirement were not required. By virtue of the Examiner’s requirement and since the

claims of the various components are so closely related, it is submitted that there is no serious burden on the Examiner in examining all of these claims together.

For all of these reasons, and consistent with the Office policy as set forth in M.P.E.P. § 803, Applicants respectfully request that the Examiner reconsider the position taken in the above-mentioned Official Action and withdraw the restriction requirement in the present application. Accordingly, the Examiner's restriction requirement is believed to be improper and has been traversed for the reasons set forth above.

Applicants submit that, in view of the above, it is inappropriate to require Applicants to restrict their invention to the combination or subcombination, and that it is not burdensome for the Examiner to examine claims 1-24 because of the commonality of the claimed subject matter.

Nevertheless, in order to be fully responsive, Applicants have elected with traverse, the invention disclosed in subcombination (I), comprising claims 1-12, in the event that the Examiner chooses not to reconsider and withdraw the restriction requirement. Notwithstanding, Applicants reserve the right to file one or more divisional applications with respect to claims 13-20, 25-34 and 21-24, should the Examiner choose not to reconsider and withdraw the restriction requirement.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
Hiroyuki KOBAYASHI et al..

Will S. Lydd Reg. No.  
Bruce H. Bernstein 41,568  
Reg. No. 29,027

November 10, 2004  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191